

## **Testimony of Daniel Walsh, Ph. D.**

### **Director of New York City Office of Environmental Remediation**

Good afternoon. My name is Daniel Walsh. I am the Director of the New York City Office of Environmental Remediation (OER). I am joined by Mark McIntyre, General Counsel for the office. This Office was established by Mayor Bloomberg in June 2008 and represents the attainment of one of the 11 initiatives outlined in the brownfield chapter of PlaNYC. I am here this afternoon to testify and express the Mayor's support for the New York City Brownfield and Community Revitalization Bill, a bill that will enable the attainment of the remaining 10 initiatives in the brownfield chapter of PlaNYC. I would like to thank the Chairman of the Committee, Council Member Gennaro, and all of the committee members for this opportunity to testify here today.

By way of introduction, I have spent my entire career working on brownfield and environmental cleanup projects here in NYC. I formerly served with the New York State Department of Environmental Conservation (DEC) as the New York City director of the Brownfield and Superfund Program. In that capacity, I have been aware of the leadership that the Environmental Protection Committee and its chair have displayed in formulation of landmark environmental legislation.

A brownfield is a vacant or underutilized property that remains undeveloped because pollution from past land usage stops attempts at redevelopment. Brownfields are an important cause of distress in our city's neighborhoods because they often occur in clusters that stifle community revitalization and do so in a manner that disproportionately affects environmental justice communities. In New York City, there are roughly 7,600 acres of potential brownfields. Left unattended, these properties represent lost opportunities for urban revitalization and in some cases, may pose a threat to public health or the environment.

In 2007, PlaNYC correctly recognized that NYC had to assert its influence to create programs, tools and resources to promote cleanup and redevelopment of its brownfield properties. Additionally, with the recent economic downturn, City efforts to stimulate brownfield redevelopment now constitute an important avenue for economic recovery. PlaNYC laid out 11 initiatives for brownfield management. Over the last year enormous strides have been taken to realize these goals. Since the creation of the Office last June, staff have worked closely with New York State, the community and with other brownfield stakeholders, most notably, New Partners for Community Revitalization, and have designed an impressive series of new programs for New York City. The bill before you is important because it would provide the Office with the authority to carry out these programs and focus the City's resources to enable brownfield cleanup and redevelopment and provide new pathways for community revitalization.

Most important among the programs we intend to launch under this bill is a new City brownfield cleanup program. This program will be the first municipal cleanup program in the nation. Before I continue, let me take a moment to provide some historical context for this major step.

Land pollution and the creation of brownfield properties in NYC occurred over more than two centuries, and was largely ended by the early 1990s. Since that time, cleanup programs administered by New York State have resulted in cleanup of city properties. The first State brownfield cleanup program emerged in 1994 and was incorporated into State law in 2003. State brownfield programs have achieved excellent cleanups. However, recently, enrollment has been greatly reduced due to denial of properties with historical fill and other types of light to moderate contamination. We believe that such properties make up about 90% of New York City's brownfield properties and lack of availability of a cleanup program for these properties is a critical problem that must be addressed immediately. This is why we need a New York City Brownfield Cleanup Program.

With this bill, NYC is poised to take charge of management of brownfields within its borders. The bill will allow New York City to take an active role in the recovery of our environmentally impaired property and will greatly accelerate the pace of cleanups. This is a step whose time has come.

The new cleanup program, to be called the New York City Brownfield Cleanup Program (BCP), will greatly accelerate cleanup of brownfield sites in the city. In its design, we have worked in a close partnership with the New York State Department of Environmental Conservation and the New York State Department of Health to ensure we achieve cleanups that are identical to those achieved by the State programs. We will use State DEC standards, cleanup selection criteria, and all work will be performed under plans approved by our staff of scientists and engineers. The City program is designed to oversee cleanup of brownfield properties with light to moderate levels of contamination, including historical fill sites.

In a partnership with State and Federal agencies, as well as other City agencies, our cleanup program will offer a one-stop shop for brownfield cleanup. In consultation with the New York City Department of Health & Mental Hygiene, we will ensure that cleanups under our NYC BCP will be protective of both public health and the environment. Partnerships with DEC and USEPA are also expected to enable broad liability protection for land owners and developers who successfully clean properties under our City program. We will also offer a Clean Property Certification Program that will do for brownfields what LEED certification does for green building design.

OER has designed a brownfield cleanup program that delivers high-quality remedies. The 'one-stop remediation' approach will eliminate duplicative efforts and assist property owners and developers in navigating the cleanup process. A 'green team' of City experts will work with brownfield property owners and developers to assist in the cleanup process. Our new program has been designed to provide the highest level of quality and predictability through the use of templates for program milestone reports and work plans. The Office will also provide extensive training for environmental consultants, developers and the community.

To promote brownfield cleanup and enrollment in our program, this bill provides the Office with authority to administer City funds in a new brownfield financial incentive program. Under PlaNYC, the City has budgeted roughly 11 million dollars for investment over the next three years. We will offer a small-grant program that is designed to stimulate brownfield projects at all stages, from pre-development through cleanup, and to encourage enrollment in our cleanup program. We will also provide preference to environmental justice communities through enhanced benefits for targeted projects, such as affordable housing and Brownfield Opportunity Area compliant projects.

To supplement this incentive program and aid other brownfield initiatives, the Office has also recently applied for approximately \$3 million in State and Federal grants. More importantly, the City cleanup program will provide a steady stream of shovel-ready brownfield development projects and our small grant program will provide a structure for potential investment of economic stimulus funding in city brownfields. To this end, the Office has been working aggressively to advance partnerships with City, State and Federal agencies. We are optimistic that the combination of City incentive grants, and State and Federal funds, will encourage cleanup on City brownfields and will serve as a powerful engine for job creation, community revitalization, and economic recovery.

With the creation of our new brownfield cleanup program, we believe developers will recognize that brownfields now offer unique development opportunities. But to take advantage of these opportunities, people need to be able to locate potential brownfield properties. OER is currently engaged in a detailed study of the historical usage of vacant commercial and industrial property in NYC. The findings of this study will be made available to the public through OER's website.

This Bill would authorize the Office to engage NYC communities and the general public on training, education and program participation. We have assembled a series of progressive programs for community involvement to achieve the broad brownfield goals of PlaNYC. Simply put, OER will provide the most advanced form of community engagement now available on brownfield issues. Citizen participation for our local brownfield cleanup program will comply with the rigorous requirements established by New York State. OER will also introduce the Community Protection Statement to brownfield cleanup plans. This Statement will identify the advanced measures to be employed for community protection and will provide simple, easy to understand explanations in the executive summary to ease review by our citizens.

The Office has introduced a robust public education program. In 2008, we initiated the Brownfields for Beginners workshops, an educational series that provides basic instruction on brownfield cleanup and redevelopment. These workshops are aimed at non-profit community development corporations, Brownfield Opportunity Area groups, and small- and mid-size developers. We are also aggressively pursuing State and Federal funding to further our community education and brownfield assistance and to aid important programs like the NYS Brownfield Opportunity Area (or BOA) grantees program. This a fabulous program, and with the stewardship of New Partners for Community Revitalization, New York City now has 16 BOA grantees accounting for a total of \$4 million dollars in grant awards. OER will be working closely with the New York State Department of State to foster this excellent program and expand it into more NYC communities.

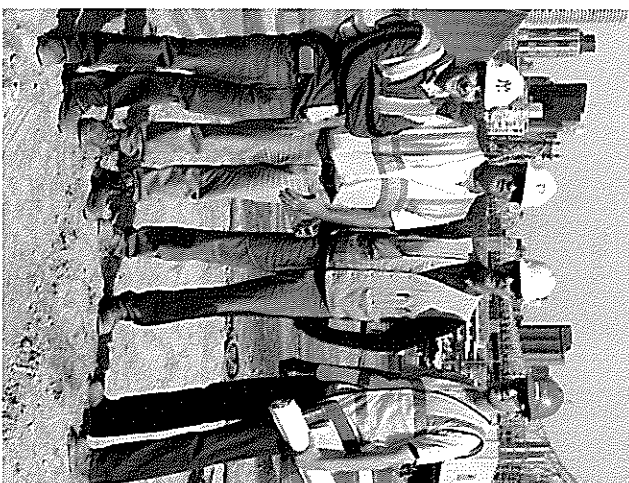
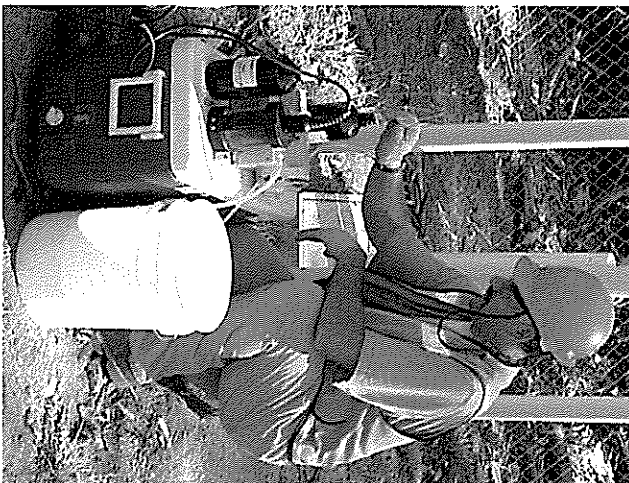
The NYC Brownfield Cleanup Program will introduce sustainability as a cleanup selection criterion. OER will also introduce the Sustainability Statement to our cleanup plans: a summary of sustainability measures to be employed during and after the cleanup process. I am proud to say that the Bill before you, if adopted into law, will enable our NYC program to become the first fully sustainable brownfield cleanup program in the nation.

Finally, there are many brownfield stakeholder organizations in NYC, including private and non-profit developers, community based organizations, cleanup contractors, and environmental consultants. Collectively, these organizations represent an enormous resource available to NYC communities. Prior to the release of PlaNYC, the resources available from these stakeholders were not fully realized. In late 2008, the Office initiated a partnership of brownfield stakeholders to harness and focus these resources by providing a variety of programs designed to bring tangible benefits to NYC communities. This association, known as the NYC Partnership of Brownfield Practitioners, is the first of its kind in the U.S. and is now in full operation. It currently offers a pro-bono cleanup counseling program, a green job training program for unskilled workers from environmental justice communities, and a brownfield scholarship and internship program.

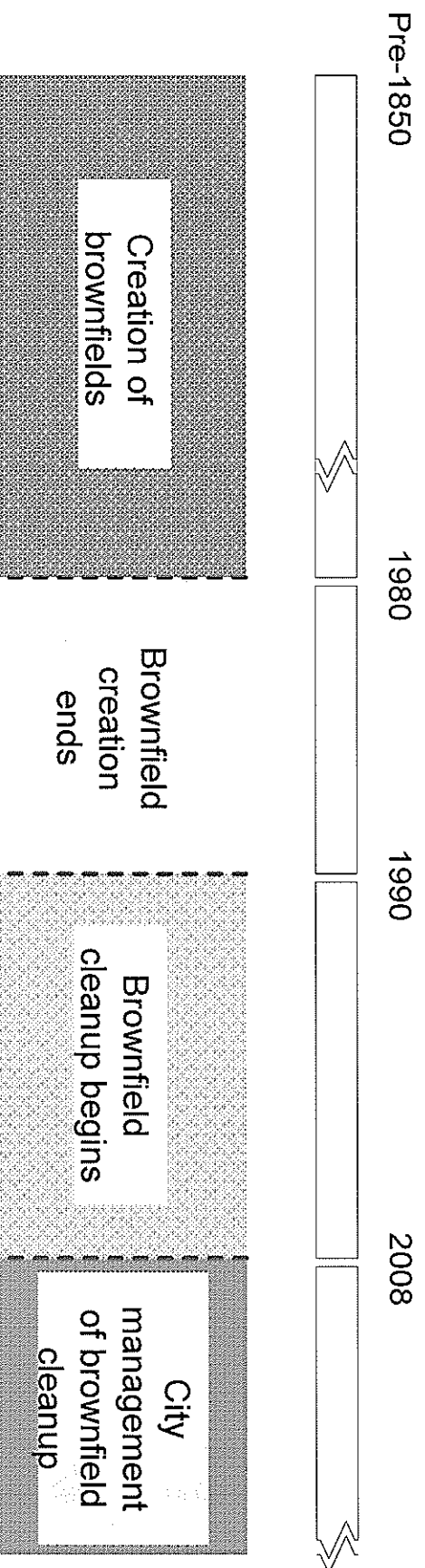
I have provided an overview of the elements of various programs that will be enabled by passage of this bill. These programs will provide a vital service to our communities for many years to come. In closing, I would like to thank the Committee for this opportunity to testify here today on this important bill.

# PLANYC

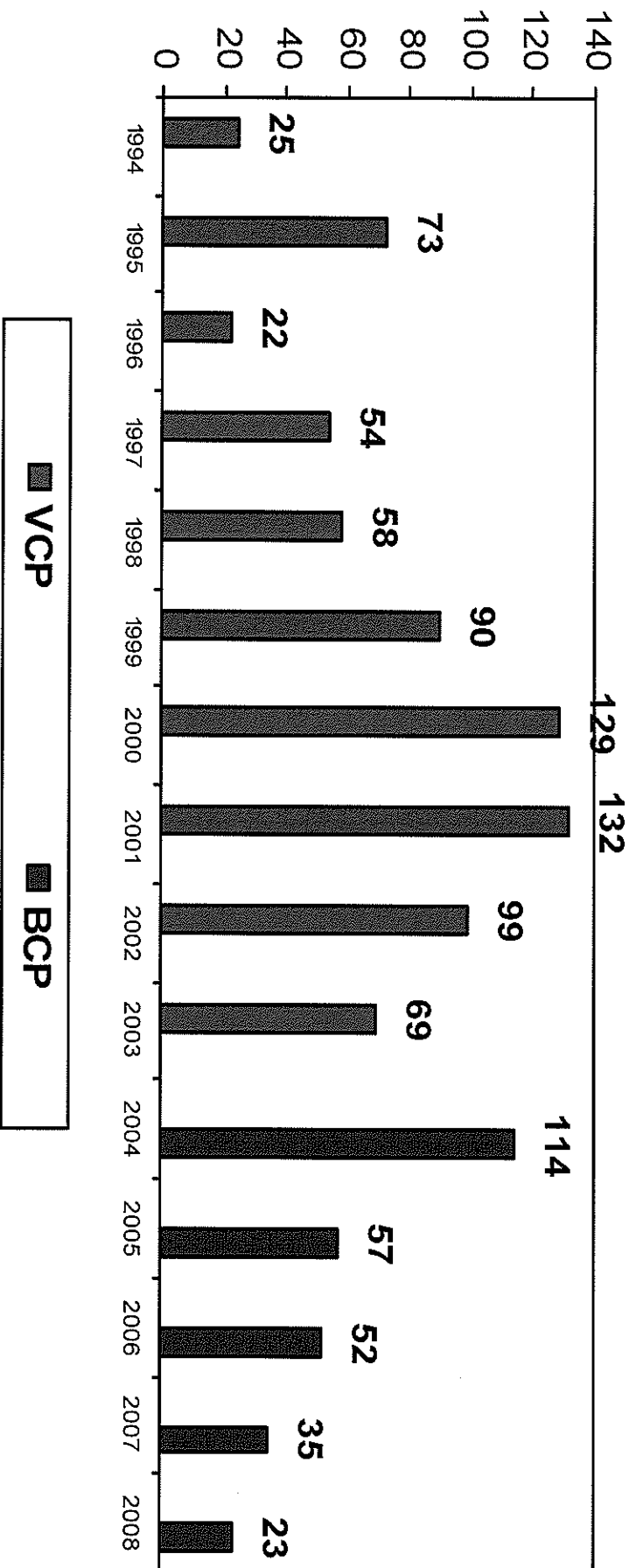
# NYC Office of Environmental Remediation



# Brownfield Stages in NYC



# NYS Brownfield Program Enrollment



# Community Protection

- Community Protection Statement
- Partnership with NYC DOHMH
- Citizen Participation for NYC BCP
- Website repository
- Pro bono community counseling





**ENVIRONMENTAL DEFENSE FUND**

finding the ways that work

**COMMENTS OF THE ENVIRONMENTAL DEFENSE FUND  
ON PROPOSED INT. NO. 21-A  
BEFORE THE NEW YORK CITY COUNCIL  
COMMITTEE ON ENVIRONMENTAL PROTECTION**

James T. B. Tripp,  
General Counsel

The Environmental Defense Fund is a national environmental organization headquartered in New York that uses science and economics to advocate for solutions to complex environmental problems. We have a long-standing interest in the development of brownfields remediation and redevelopment policies and programs in the State of New York. We participated in both former Governor Pataki's Superfund and Brownfields Working Group and the Potanico Roundtable for Consensus on Brownfields and its successor. We worked extensively on key policy initiatives that were incorporated into the State's 2003 brownfields law. I also serve as chair of the board of New Partners for Community Revitalization, but these comments represent those of the Environmental Defense Fund solely.

The City is proposing the formal establishment by the City Council of an Office of Environmental Remediation (OER) with its director lodged within the Office of Operations and a formal NYC Brownfield Cleanup Program. These acts would be known, respectively, as the NYC brownfield and community revitalization act and the NYC local brownfield cleanup law.

We support these two initiatives. With several thousands of acres of brownfields sites that have small to moderate levels of soil contamination that might inhibit redevelopment, but are not part of nor would qualify for, the State or federal superfund programs, it makes eminent sense for the City to take control of its destiny and to design a program that could foster the cleanup and redevelopment of these sites in a manner consistent with the protection of public health and the environment and consistent with the standards of the State Brownfield Cleanup Program under the aegis of NYS Department of Environmental Conservation.

Since the State has a Brownfields Cleanup Program (BCP) with the potential for significant tax credits and State liability release when a parcel qualifies for the BCP and completes its remediation plan, why should the City have its own BCP? To answer this question, we need to understand the strengths and limitations of the State program.

There are two major incentives for private parties that own contaminated land to seek participation in the State Brownfields Cleanup Program (BCP). They are the availability of State remediation and redevelopment tax credits, and a State liability release. Although a recent amendment to the State law has limited the amount of redevelopment tax credits, the State remains wary of opening the doors of its BCP if the end result is significant loss of State tax revenues in future years. Thus, as attractive as the State BCP tax credits may be, the State program operates slowly, and many parcels have not qualified in part because of State efforts to constrain tax credit awards. In addition, the State has administratively decided to exclude brownfields sites that are contaminated because of contaminated fill historically used to elevate those sites. While DEC ought to be able to change this administrative ruling, some think that it may require a statutory amendment, and the State seems to resist doing this because of tax credit exposure.

For all of these reasons, if the goal is to have a process for remediating and redeveloping brownfields sites in NYC that works effectively for the private sector, community groups and the City itself, the City should have its own program. Although the City program can offer City liability release, it cannot offer State liability release without State concurrence and approval of the program, and that will require State legislation. This bill would allow the City to seek DEC approval of its program. While the City would never be in a position to offer State tax credits available through the State BCP to parties participating in the City BCP, many would be willing to forego those credits in exchange for a City program that was staffed and equipped to move modestly contaminated sites through the process, including review of site conditions and remedial action plans, at a reasonably expeditious pace relative to the State BCP even if they might qualify for the State program. They certainly would choose to do this if they do not qualify for the State BCP.

Where brownfields sites in the City do not qualify for the State BCP or their owners find the State process too cumbersome, they may sit in limbo or seek some kind of informal, non-transparent approval from some City agency. If they sit in limbo, they continue to be a visual if not health blight on the surrounding communities. If they get cleaned up and redeveloped today without participating in the State BCP, the review process and standards to assess the clean up are unclear to the public.

We therefore strongly support setting up an office in the City that will coordinate City policies and programs on brownfields cleanup and redevelopment and will have the capacity to operate the NYC BCP as described in the bill. Section 24-903(d) makes it clear that the criteria and standards that the OER will apply to remedial action work plans and remedial actions will be consistent with those applicable to the State BCP.

The State law and State BCP allow for end uses to play a role in determining the type and level of cleanup required under certain circumstances, and this bill would do likewise. Whether or not the end use of a site should play a role under any circumstances in the degree of cleanup required was a policy issue that the State's environmental community, as well as the State legislature, debated. The fact is that, if we are to expect private investors who were not directly responsible in most cases for contamination found on sites that they own to pay to cleanup and then redevelop those sites, the cost of cleanup cannot be so exorbitant so as to serve as an impediment for action. If the sites just sit there, as many do today, they pose a continuing problem to community betterment.

The goal should be to cleanup sites so that they protect public health and the environment. Given the extent of historic contamination in former NYC industrial areas, and the opportunities for contaminants to move through groundwater from one site to another, the perfect (i.e., removing every molecule of a contaminant in a site's soils and groundwater beneath) may be physically impossible and the enemy of the good. In any event, Section 24-906(b) provides for a reopener if evidence is forthcoming that a cleanup that was completed is not protective of public health and the environment.

Just because contaminants can move from one site to another, on the surface through air transport, or subsurface, via groundwater transport, it makes sense for City policy to focus on multiple contaminated sites within an area. This is what the Brownfields Opportunity Area (BOA) program of the State law facilitates. In addition, the BOA program that the NYS Department of State administers encourages pro-active community involvement in partnership with brownfields sites owners and the City. This bill, e.g., section 2.5 of the NYC Brownfield and Community Revitalization Act, encourages the OER to foster BOA plans as well as citizen participation generally, as 24-905(a) does. We therefore support City Council adoption of these bills.



**NPCR**  
NEW PARTNERS FOR  
COMMUNITY  
REVITALIZATION, INC.

11 Penn Plaza, 5th floor  
New York, NY 10001

**Testimony in Support**  
**Of**  
**The New York City Brownfield and Community Revitalization Act**  
**Intro No. 21-A**  
**April 21, 2009**

New Partners for Community Revitalization, Inc. (NPCR) is a not-for-profit organization working to revitalize New York's communities, with a particular focus on brownfield sites in low- and moderate-income neighborhoods and communities of color. NPCR is working to ensure that brownfield cleanups not only benefit poor and low-income neighborhoods, but also involve area residents meaningfully in the planning process for the future of their revitalized neighborhoods. We strongly endorse the bill, Intro No. 21-A, the New York City Brownfield and Community Revitalization Act.

There are several key reasons for NPCR's enthusiastic support. We believe this legislation gives the City fundamental tools that are needed to overcome the intractable obstacles of disinvestment and decay that limit development in so many of New York's underserved neighborhoods. The institutionalization of the Office of Environmental Remediation (OER) will empower it to work with other City agencies to function in a more coordinated, more efficient fashion. And, we believe this approach is one that complements our organization's mission in that with this law, the City's remediation focus will be on the cleanup and redevelopment of contaminated properties that are largely in left-behind, low- and moderate-income neighborhoods.

Passage of this bill will firmly establish New York City as a national leader in urban smart growth in that this bill contains crucial tools, resources and a unique underlying framework that will create new partnerships between local government, local residents, property owners, local businesses, community organizations and neighborhood lenders and across all levels of government. It provides for the "fourth leg on the stool" and will allow the City to be a full partner in the implementation of the state's innovative Brownfield Opportunity Area (BOA) program, along with local residents and community based organizations. Through

BOA -- a program that empowers communities to plan for their re-development, based not on what a particular developer wants, but on what the neighborhood needs -- contaminated lands are remediated, public health improves and investment dollars begin to flow. Communities become more attractive and livable. New parks and affordable housing is created, and local shops and businesses and other job-generating enterprises thrive. In November 2008, Governor Paterson and Secretary of State Lorraine Cortes-Vazquez launched the Spotlight Communities Initiative. In that announcement, the State made a firm commitment -- via the New York Smart Growth Cabinet -- to the BOA approach to urban revitalization. This bill would formally recognize and prioritize resources for projects built consistent with BOA plans, and will position NYC neighborhoods to successfully compete for state and federal resources.

What sets this apart from other municipal brownfield programs across the country is that this bill firmly establishes an area-wide, collaborative approach to the planning, cleanup and re-use of the City's estimated 7,600 acres of brownfield sites. Passage of this bill will lead to the creation of new economic anchors that signify the rebirth of neglected neighborhoods.

Specifically, the New York City Brownfield and Community Revitalization Act will accomplish several key goals crucial to the success of an urban smart growth strategy. Once passed into law, it will facilitate the city's effective participation in the state's BOA program. It will empower the OER to develop programs for sustainable growth in consultation with the city Office of Long-term Planning and Sustainability with a focus on communities burdened by disproportionate numbers of brownfield sites and on projects that are consistent with BOA plans. It will provide priority for projects consistent with BOA plans in its financial and other incentive programs. It will allow the OER to serve as an intermediary for city agencies and officials participating in BOA planning and implementation. It will facilitate interactions among city agencies, community based organizations, developers, and environmental experts and assist community-based organizations in brownfield redevelopment. And, it will support the efforts of community groups, developers, and property owners to obtain and utilize federal, state, and private incentives to identify, investigate, remediate, and redevelop brownfields.

In addition, the bill would provide authority for the city to create a local regulatory program that will give affordable housing developers and others who have been disqualified from the State's cleanup program for

not being "dirty enough," the opportunity to conduct cleanups under the watchful eye of regulators. When passed, it will:

- Provide regulatory oversight of brownfield cleanups that are not subject to state or federal enforcement actions as well as those city sites disqualified from entering the New York State Brownfield Cleanup Program.
- Provide that the cleanup standards and cleanup remedies on city sites will be consistent with the rigorous State Brownfield Cleanup Program.
- Ensure interagency and public notification regarding compliance with engineering and institutional controls, guaranteeing that intended use cleanups will be monitored and regulated.

Two years ago, Mayor Bloomberg announced his PlaNYC initiative recognizing that the city is expected to add another million residents by 2030, that our carbon footprint is unsustainable and that the future of the city requires development of previously used lands, most of them brownfields. The New York City Brownfield and Community Revitalization Act is the next step in responding to the Mayor's challenge. NPCR urges those who care about the future of this city, especially those who see its future in the revitalization of neglected low-and moderate-income neighborhoods and communities of color, to support this crucial piece of urban smart growth legislation.



**NPCR**

NEW PARTNERS FOR  
COMMUNITY  
REVITALIZATION, INC.

11 Penn Plaza, 5th floor  
New York, NY 10001

**Brooklyn Economic Development Corporation, Environmental Defense Fund,  
EWVIDCO, Fifth Avenue Committee, Greater Jamaica Development Corp., New  
Partners for Community Revitalization, New York City Environmental Justice  
Alliance, New York League of Conservation Voters, Northfield Community LDC  
of Staten Island, Inc., SoBRO, UPROSE, Urban Agenda,  
Youth Ministries for Peace and Justice, WE ACT for Environmental Justice,  
West Brighton Community LDC**

## **STATEMENT OF SUPPORT**

### **New York City Brownfield and Community Revitalization Act. Intro No. 21-A**

April 21, 2009

The undersigned groups strongly endorse Intro No. 21-A, the New York City Brownfield and Community Revitalization Act.

We believe this legislation gives the City fundamental tools that are needed to overcome the intractable obstacles of disinvestment and decay that limit development in so many of New York's underserved neighborhoods. The institutionalization of the Office of Environmental Remediation (OER) will empower it to work with other city agencies to function in a more coordinated, more efficient fashion. As a result, the City's remediation focus will be on the cleanup and redevelopment of contaminated properties that are largely to be found in left-behind, low- and moderate-income neighborhoods and communities of color.

Passage of this bill will firmly establish New York City as a national leader in urban smart growth planning. The bill contains crucial tools, resources, and a unique underlying framework that will create new partnerships between local government, residents, property owners, local businesses, community organizations and neighborhood lenders. It establishes the City as a fully engaged

partner in the implementation of the state's innovative Brownfield Opportunity Area (BOA) program, along with local residents and community based organizations. Through BOA -- a program that empowers communities to plan for their re-development, based not on what a particular developer wants, but on what the neighborhood needs -- contaminated lands are remediated, public health improves, and investment dollars begin to flow. Communities become more attractive and livable. New parks and affordable housing is created, and local shops and businesses and other job-generating enterprises thrive. In November 2008, Governor Paterson and Secretary of State Lorraine Cortes-Vazquez launched the Spotlight Communities Initiative. In that announcement, the State made a firm commitment -- via the New York Smart Growth Cabinet -- to the BOA approach to urban revitalization. This New York City bill would formally recognize and prioritize resources for projects built consistent with BOA plans, and will position City neighborhoods to successfully compete for state and federal resources.

What sets this apart from other municipal brownfield programs across the country is that this bill firmly establishes an area-wide, collaborative approach to the planning, cleanup and re-use of New York City's estimated 7,600 acres of brownfield sites. Passage of this bill will lead to the creation of new economic anchors that signify the rebirth of neglected neighborhoods.

Once passed, the Brownfield and Community Revitalization Act will facilitate New York City's effective participation in the state's BOA program. It will empower the OER to develop programs for sustainable growth in consultation with the city Office of Long-term Planning and Sustainability with a focus on communities burdened by disproportionate numbers of brownfield sites and on projects that are consistent with BOA plans. It will prioritize projects consistent with BOA plans in its financial and other incentive programs. It will allow the OER to serve as an intermediary for city agencies and officials participating in BOA planning and implementation. It will facilitate interactions among city agencies, community based organizations, developers, and environmental experts and assist community-based organizations in brownfield redevelopment. And, it will support the efforts of community groups, developers, and property owners to obtain and utilize federal, state, and private incentives to identify, investigate, remediate, and redevelop brownfields.

In addition, the bill will provide authority for New York City to create a local regulatory program that will give affordable housing developers and others who have been disqualified from the state's cleanup program for not being "dirty enough," the opportunity to conduct cleanups under the watchful eye of regulators. When passed, it will:

- Provide regulatory oversight of brownfield cleanups that are not subject to state or federal enforcement actions as well as those sites in the City disqualified from entering the New York State Brownfield Cleanup Program.
- Provide that the cleanup standards and cleanup remedies on New York City sites will be consistent with the rigorous state Brownfield Cleanup Program.
- Ensure interagency and public notification regarding compliance with engineering and institutional controls, guaranteeing that intended use cleanups will be monitored and regulated.

In 2007, Mayor Bloomberg announced his PlaNYC initiative recognizing that the City is expected to add another million residents by 2030, that our carbon footprint is unsustainable, and that the future of the City requires development of previously used lands, most of them brownfields. The



New York City Brownfield and Community Revitalization Act is the next step in responding to the Mayor's challenge. We urge members of the New York City Council to act in the best interest of the revitalization of neglected low-and moderate-income neighborhoods and communities of color, and support this crucial piece of urban smart growth legislation.

Signed:

*Brooklyn Economic Development Corporation*  
*Joan Bartolomeo*

*Environmental Defense Fund*  
*Jim Tripp, Counsel*

*EWIDCO*  
*Leah Archibald, Executive Director*

*Fifth Avenue Committee*  
*Michelle de la Uz*

*Greater Jamaica Development Corp.*  
*Richard Werber, Director*

*New Partners for Community Revitalization*  
*Jody Kass, Co-director*

*New York City Environmental Justice Alliance*  
*Elizabeth Yeampierre*

*New York League of Conservation Voters*  
*Marcia Bystryn, Executive Director*

*Northfield Community LDC of Staten Island, Inc.*  
*Joan Northfield, Executive Director*

*SOBRO*  
*Neil Pariser*

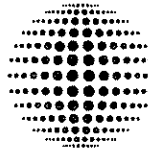
*UPROSE*  
*Elizabeth Yeampierre, Executive Director*

*Urban Agenda  
Joanne Derwin, Director*

*Youth Ministries for Peace and Justice  
Alexie Torres-Fleming, Executive Director*

*WE ACT for Environmental Justice  
Cecil Corbin-Mark, Director of Programs*

*West Brighton Community LDC*



**Partnership for New York City**

**TESTIMONY SUBMITTED BEFORE THE NEW YORK CITY COUNCIL**  
**COMMITTEE ON ENVIRONMENTAL PROTECTION**

**BROWNFIELDS REDEVELOPMENT PROGRAM**

**TUESDAY, APRIL 21, 2009**

**RAMON CRUZ**  
**VICE PRESIDENT, ENERGY & ENVIRONMENT**

**PARTNERSHIP FOR NEW YORK CITY**

Thank you Chairman Gennaro and members of the committee for the opportunity to testify today.

The Partnership for New York City is an organization of business leaders dedicated to strengthening the economy of New York City and State. We support the creation of a local brownfields program to accelerate the redevelopment of thousands of acres of contaminated land in the city that have been neglected and underutilized for too long. Among other things, this local initiative would advance efforts by the City and the private sector to recover from the current recession and help get construction moving again.

An important component of such a program will be the City's ability to enter into agreements with State agencies to secure guarantees against liability for program participants in other jurisdictions. This liability protection is necessary to attract private investment in contaminated properties. We recommend that the Council and the Administration work together to secure Albany's approval of this limit on liability.

The Partnership provided leadership in securing a state brownfields remediation and redevelopment program that has been moderately successful, particularly with the most contaminated properties. But much possible reclamation activity has been left undone. Providing New York City the authority to run its own brownfields cleanup program would allow for expedited investment in sites that

are not state priorities. For example, the city has many sites with historic fill that contain light to moderate contamination, which the State program does not effectively address. Cleanup of these sites could be expedited with the right financial incentives and a predictable process, managed through a local brownfields program.

New York State has a significant portfolio of contaminated properties. A local program will complement the brownfields initiatives of the state and break a logjam that has unnecessarily delayed the remediation of many properties. We urge the Committee to support this measure, and look forward to working together in Albany to ensure that the appropriate state authorization is enacted.



## Center for Health, Environment & Justice

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### **New York City Council Committee on Environmental Protection**

### **Public Hearing on Proposed Int. No. 21-A**

April 21, 2009

Testimony of

Anne Rabe

Center for Health, Environment & Justice  
Citizens' Environmental Coalition

*CHEJ Campaign Coordinator  
CEC Board of Directors CoChairperson  
CHEJ Upstate New York Office  
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Good Afternoon. I am Anne Rabe, and I work for a national organization, the Center for Health, Environment & Justice (CHEJ). CHEJ is one of the leading groups in the country on toxic waste issues, especially Superfund and brownfield sites. Our Executive Director, Lois Gibbs, is well-known as the community leader who organized the successful relocation of over 800 families away from the infamous Love Canal toxic waste site in Niagara Falls in the late 1970's. For over 2 decades, CHEJ has worked with New York communities impacted by toxic sites.

I am also here today to represent a statewide organization, Citizens' Environmental Coalition (CEC) which is the leading group on toxic issues in New York and has many grassroots member groups impacted by toxic sites. I serve as Co-Chairperson of CEC's Board of Directors. Collectively, I am representing thousands of individuals and community and environmental groups who are members of CHEJ and CEC and reside in New York State.

We appreciate the opportunity to testify at this hearing on New York City's proposed brownfield legislation.

The 2003 Brownfield state law established a program with directives on protective cleanup standards, as well as rewards for developers that entered the program to clean up a site (Environmental Conservation Law [ECL] 27-1401-1433). In exchange for cleaning up a site to a level that is "fully protective of public health and the environment," a developer would receive substantial tax credits, a streamlined process with timetables and certainty on remediation requirements with established soil standards.

The framework of the law was based on compromises crafted by the Legislature and the Governor over a multi-year negotiation process. For the first time, the state approved a land-use based approach for soil standards, for which industry groups had been advocating for years. However, while the new program would have different cleanup levels for residential, commercial, and industrial properties, these standards would be based on protective environmental and health criteria, such as the protection of drinking water and children, leading Governor Pataki to state that it would "be one of the most protective cleanup programs in the country." It took years for the Departments of Environmental Conservation and Health (DEC and DOH) to finalize the Brownfield Cleanup Program regulations and soil standards which are a comprehensive set of cleanup requirements (Part 375 Regulations).

There are a few provisions in bill 21-A that could enable the city to assist developers in the redevelopment process or in gaining funds and we generally support these provisions. **However, the main thrust of the bill is to have the city completely take over the state Department of Environmental Conservation's role of administrating the brownfield program in relation to site investigations and cleanup plans. Our organizations strongly oppose these aspects of bill 21-A.**

**The issue of delegating brownfield cleanup decisions regionally or carving out special deals for municipalities was hotly debated in 2003 when the law passed. At**

that time, Buffalo area policymakers were looking for a special deal in their area with weakened cleanup requirements. They claimed this would facilitate more redevelopment and job growth in their economically depressed region. **The Legislature and Governor's office opposed these proposals and passed a law which clearly required the DEC to implement all aspects of the program throughout the state.**

The bill proposes that a new Office of Environmental Remediation would have the power and the duty to *"develop and administer a local brownfield cleanup program to facilitate the identification, investigation, remediation and redevelopment of brownfields in support of the city's economic development."* (Section 2.e.4.). This includes *"the review and acceptance of remedial plans for brownfield redevelopment projects..."* (Section 2.e.14). The office would *"coordinate, partner and enter into agreements with federal and state agencies and officials....in connection with the identification, investigation, remediation, and redevelopment of brownfields in support of the city's economic development."* (Section 2.e.10)

We would like to highlight some of the major shortcomings of the city's proposal to take over the state's implementation of the brownfield program.

**First, we have not seen any evidence that state law would even allow DEC to hand over their statutory authority to a municipality. Can the city cite any statutory authority which would allow the state to consider delegating this program?** It appears to be unprecedented and as far as we know it has not been done for other major state environmental programs and regulations on solid and hazardous waste, water and other issues. Such a transfer would not meet the letter and the spirit of the law, as the legislature clearly established the program to be managed by the state DEC.

In communications with city officials, it was mentioned that DEC may just delegate the implementation of the program and maintain final approval on site cleanup plans. This is still unacceptable. If DEC is not deeply involved in each step of the site investigation and remedial process, it will only have a superficial role. The in-depth participation of the agency in all the details relating to the site during the testing and cleanup development process is where the real decisions get made. We fear DEC would merely be rubber stamping whatever deal the City worked out with a developer.

**Another aspect of this issue is that delegation has been problematic for DEC in the past.** About five years ago, DEC delegated gasoline station inspections to Nassau, Suffolk, Westchester, Tompkins and Rockland Counties. An internal review by the agency found there were serious problems and the inspection of underground storage tanks was not always done adequately or consistently. Apparently, one of the problems was that county staff were more subject to local political or business pressure to not thoroughly or regularly inspect the tanks. Now, DEC is apparently looking into taking back the delegated authority.

**Second, this proposal would place important public health and safety decisions directly inside a political office.** Technically complex decisions on where to test for chemicals, the level of cleanup and the type of remedial method would be implemented by political appointees, not civil service employees with the appropriate technical expertise at

the state DEC. Only DEC has the expertise, experience and the legal authority to make these decisions, manage the state program, and implement the statute consistently. We see no reason why the city should attempt to "take over" the DEC's appropriate authority for this program.

**Third, there is always a direct conflict between those cleaning up brownfields—who search for the cheapest remedy—and those whose interest is in protecting public health and the environment. The bill has a distinct emphasis on economic development as the reason for the legislation. And throughout the bill, the main goal of the city's new role in implementing the brownfield program is to "support the city's economic development." Clearly, the first goal in cleaning up contaminated sites is to protect public health and the environment, and the subsequent goal is to then facilitate redevelopment that promotes safe and healthy communities. We need to continue to keep these two procedures separate and maintain the firewall wherein the DEC administers the brownfield program and makes the cleanup decisions without undue influence from developers and others with economic interests. And then, the city administers the redevelopment process.**

**Fourth, we do not believe that the city has sufficient resources or the expertise to adequately manage the program. This is a very basic implementation problem.**

**Already the City has problems with meeting its environmental oversight obligations.** For instance in 2006, the Environmental Protection Agency settled a lawsuit against the City involving violations with the City's underground storage tank systems. The settlement required the City to pay \$1.3 million in penalties and to bring substandard tank systems into compliance with federal law. EPA found that from at least 1997, the City has been violating federal law in connection with its underground storage tank systems which include 1600 underground storage tanks in at least 400 locations throughout the metropolitan area that store petroleum and other harmful substances.

In 2008, the DEC settled an enforcement action against the city in relation to violations related to delays in making sewer and storm water system upgrades to prevent overflows into waterways. The city had to pay a \$1 million fine and fund \$4 million worth of environmentally-beneficial projects. The violations stem from the city's failure to make improvements in accordance with a schedule outlined in a 2005 consent order to upgrade its sewer and storm water systems.

**In addition, we are concerned about some of the City's past practices on toxic site issues.** Apparently for years, DEC staff has been unable to obtain information from DEP in relation to potential Superfund sites. DEP receives environmental investigation reports that are required whenever an owner or developer wants to reconstruct, renovate or build on their property. This can provide valuable information about potential contamination, especially in old industrial areas or former dry cleaner sites. It is my understanding that DEP has often refused to provide this relevant information to DEC claiming that the state will not investigate sites in a timely fashion due to staff cutbacks, and they want to facilitate site development as soon as possible to get the properties back on the tax roll. Instead of



taking this unfortunate attitude, why doesn't the City support an increase in DEC staff, such as using the economic stimulus funds, to help investigate sites in a timelier manner?

Another story involves a meeting with DEP officials which I attended in 1999 or 2000. During the Pocantico Brownfield stakeholder process, an initiative that brought together environmental groups, developers, industry and state agency officials to craft a brownfield bill, we had a side meeting with DEP officials and a top DEC official to discuss groundwater contamination issues. The focus of the meeting was to ascertain how the city and state currently dealt with non-Superfund sites with groundwater pollution, and consider new approaches. The DEP staff said they rarely required developers to remediate groundwater. This angered the top DEC official who noted that DEP did not have the authority to "write off" groundwater in the five boroughs. It was a very disturbing meeting.

**If this bill and a DEC transfer go through, we fear that the City will be pressured to cut bad deals with developers to do the cheapest investigations and cleanups possible, with little regard for promoting the more protective Track 1 and 2 cleanups that best protect public health and the environment.**

**Already the City appears to be planning to disregard some of the state's regulatory requirements and to reinvent the wheel by establishing its own set of policies.** The bill requires the politically appointed Director of Environmental Remediation to "*promulgate rules*" including application forms and "*prescribing a local brownfield cleanup agreement*" and "*prescribing requirements for remedial investigations.*" (Section 24-903).

There is also a substantial amount of discretion given to the new Director, despite having a comprehensive set of state brownfield program regulations (Part 375). For example, the legislation leaves it to the director to "*provid[e] adequate procedures to ensure that remedial action work plans and remedial actions are protective of health and the environment,*" "*prescrib[e] mechanisms for the office to determine whether the remedial actions are complete,*" "*provid[e] for the issuance of a clean property certification to those properties that have successfully completed the local brownfield cleanup program or other programs equivalent to the local brownfield cleanup program.*" (Section 24-903). These are the nuts and bolts of the program, and the program will only be as good as the details developed by the politically appointed director.

The bill notes that only "*cleanup standards and remedial selection criteria shall be consistent with [state] standards...*" (Section 24-903 (d)) Clearly, this is in direct conflict with DEC's comprehensive Part 375 brownfield regulations. **How can the city justify ignoring state regulatory requirements on site investigations for instance?**

**The bill attempts to give a false reassurance that the cleanups will only involve low-hazard sites using a definition of "*light to moderate levels of contamination.*"** This is defined as "*detectable levels of contamination, the presence of which does not require an applicant or enrollee to conduct any mandatory, governmental-supervised investigation or remediation of the contamination under any state or federal law.*" (Section 24-902)

"Moderate" levels is a very subjective term. The case can be made that moderate levels of contamination are found at most brownfield sites, as opposed to high levels of contamination found at Superfund sites. Also, if dangerous toxic wastes are uncovered at a site, it may not necessarily require "*a mandatory, government-supervised investigation or remediation*" if the DEC and City have already worked out a deal to have the City implement the brownfield program.

**This bill is misguided and would set a terrible precedent. With this bill, the Mayor's office and City Council sponsoring members are seeking to take away DEC's administration of the brownfield cleanup program for all sites in the city and place it in a political office. These proposed changes could increase public health risks as poorly tested and remediated brownfield sites are put on a fast-track for development at all costs. For the reasons stated above, our organizations strongly oppose this legislative proposal and urge the sponsors to withdraw it. Thank you for considering our views.**

FOR THE RECORD



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Good morning,

My name is Delilah Tyson and I am here on behalf of the South Bronx Overall Economic Development Corporation to speak in support of the City Council amending the New York City Charter and the administrative code of the City of New York for the purposes of enacting a new local law known as the "New York City Brownfield and Community Revitalization Act" which essentially establishes a local brownfield cleanup program under the auspices of the City's Office Of Environmental Remediation. As a participant in the New York State Brownfield Opportunity Area (BOA) program in both the Port Morris and Eastchester industrial communities, SoBRO has had the opportunity to work closely with both State and City Officials on understanding the challenges and seeing the tremendous opportunities which remediating brownfield contaminated sites presents for economic development initiatives throughout the City. The establishment of a locally controlled brownfield program such as is currently being considered to identify sites, document brownfield conditions and oversee remediation will greatly facilitate the development of brownfields in New York City by streamlining what can otherwise be an intimidating certification process for all involved.

As a local development corporation which is both an affordable housing provider as well as economic development practitioner, SoBRO is in a unique position to appreciate how important the facilitation of brownfield remediation, such as will be possible through passage of this legislation, is to our community. Literally every potential housing or industrial development site we look at in the South Bronx today requires some level of brownfield remediation.

Ironically some of these sites have contamination issues that are below State DEC brownfield thresholds and thus ineligible for various State mandated remediation programs. The legislation before you today goes along way towards filling this gap. The institutionalization of the Office of Environmental Remediation (OER) is a major step forward in facilitating the redevelopment of brownfield conditions while at the same time fully engaging the community in the process.

It is also fitting to note that by passing this legislation New York City will have taken the lead and serve as a national model for all municipalities by virtue of it creating its own brownfield program, a testament to forward thinking, sustainable planning and comprehensive development. We commend the professionalism and work of Dan Walsh and his staff at OER for having given New York City this unique opportunity to position itself as a model for all urban centers to follow in grappling with the myriad of environmental issues that plague brownfield development.

Finally, passage of this legislation will further enhance the role of the City as an effective partner in the Brownfield Opportunity Area program by giving OER the ability to support projects that grow out of BOA plans, and channel its resources to expedite the remediation process.

Thank you.



**Testimony of Dan Hendrick  
Communications Director,  
New York League of Conservation Voters (NYLCV)**

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**New York City Council Committee on Environmental Protection  
Hon. Jim Gennaro, Chair**

**Hearing on Intro. No. 21-A  
April 21, 2009**

Good afternoon. My name is Dan Hendrick and I'm honored to be here today to testify in support of Intro. No. 21-A, the New York City Brownfield and Community Revitalization Act. Passage of this legislation is essential for New York City to continue its exemplary record of environmental leadership.

The estimated 7,600 acres of contaminated land in New York City represent both a serious environmental hazard and an unprecedented development opportunity. Many of these sites are clustered in lower-income neighborhoods and communities of color. The inability to properly and expeditiously clean and redevelop them hampers the development of countless communities throughout the five boroughs. If treated properly, however, these sites represent areas of great opportunity in our "land poor" city for increased affordable housing, more open space and transit-oriented development.

Unfortunately, New York State's brownfield law contains several serious structural flaws that hamper the effectiveness of the state's brownfield remediation programs. While important reform legislation was adopted by the Legislature last year, the state's program is still far from perfect. In order to speed cleanup efforts in New York City it is essential for the city to manage its own remediation effort. The bill before you would codify the Mayor's Office of Environmental Remediation (OER), thus allowing it to interact with other agencies in a more efficient and effective manner.

Int. 21-A will place New York City at the forefront of the national environmental movement and create an important center for the advancement of smart growth. Brownfields offer the best opportunity, not only for New York City but for the entire region, to funnel population growth into areas that are well served by mass transit and which promote energy-efficient lifestyles. Encouraging this sort of development on formerly contaminated sites goes a long way in supporting the city's battle against climate change.

On behalf of NYLCV and our 15,000 members in New York City, we urge the City Council to swiftly pass Int. 21-A.

# Gowanus Canal



Testimony before the City Council on  
Intro No. 21-A, the New York City Brownfield and Community Revitalization Act  
April 21, 2009

My name is Lauren Elvers Collins and I am the Acting Executive Director of the Gowanus Canal Conservancy. The Conservancy's mission is to be steward for the preservation, restoration and green development of the Gowanus Canal and it's environs for the greater good of the community. As tomorrow is Earth Day, there isn't a better time for this bill to be presented to the City Council. We are here to endorse Intro No. 21-A, the New York City Brownfield and Community Revitalization Act

The Gowanus Canal Conservancy sits on the Steering Committee for the New York State Brownfields Opportunity Area grant, or "BOA", for the Gowanus Corridor along with grantees Gowanus Canal CDC, Community Board 6 and Friends of Community Board 6, and other Steering Committee members Friends and Residents of Greater Gowanus and the Southwest Brooklyn Industrial Development Corporation. PlaNYC has identified 7,600 acres of brownfields in New York City and a number of these are located by the Gowanus Canal. We have been very involved in formulating how the Gowanus BOA will be used to identify some of the multiple brownfields in our own backyard.

The city should have one office dedicated to addressing brownfield problems and implementing solutions. The Mayor's Office of Environmental Remediation, or "OER", has already demonstrated their commitment to addressing the problem of brownfields and has been a continuous presence in our initial planning for the BOA over the past year. OER has also been a part of public meetings to engage and inform residents of Carroll Gardens, Park Slope, and other neighborhoods of the Gowanus Basin on the current investigation and clean-up of several of the manufactured gas plant sites in the vicinity. These former plants were the source of coal tar, a toxic substance present in the soil of some lots near the Gowanus Canal.

Financial incentives, a predictable process, and protection from liability will encourage the private sector to clean up sites rather than letting them languish. Brownfields training, outreach and information are key to engaging community organizations and nonprofits in understanding the brownfields in their neighborhoods and building capacity to address them.

We urge the City Council to pass the New York City Brownfield and Community Revitalization Act establishing an office of environmental remediation and facilitating a more coordinated, efficient focus on the remediation of brownfields throughout our city.

Thank you.

New contact info: P.O. Box 150-652 Brooklyn, New York 11215 tel 718.541.4378



UPROSE

*UPROSE and NYCEJA Testimony at NYC Council Hearing on Proposed Int. No. 21-A  
April 21, 2009*

My name is Alexandra DelValle, and I am the Deputy Director and Policy Analyst at UPROSE. I am submitting this testimony on behalf of UPROSE and the New York City Environmental Justice Alliance (NYCEJA). UPROSE is Brooklyn's oldest Latino community-based organization. We work to achieve environmental justice in Sunset Park and Southwest Brooklyn. We have a multiracial and intergenerational membership, and have dedicated years to fighting against environmental burdens and for environmental amenities, like green and open space and sustainable development, in our community.

The New York City Environmental Justice Alliance (NYCEJA) is an umbrella organization comprised of member groups based in low-income communities and communities of color throughout New York City. NYCEJA empowers its member organizations to fight against environmental injustice by the coordination of citywide campaigns; many NYCEJA member organizations work together specifically on brownfield redevelopment. NYCEJA brings the unique voices of local New York City based organizations together in support of this bill, on behalf of the communities in this city with the highest proportions of brownfields and that are most likely to be positively affected by the passage of this bill.

UPROSE and NYCEJA support the proposed law which would institutionalize the Mayor's Office of Environmental Remediation and enact a local brownfields cleanup program. UPROSE is currently working on a Brownfield Opportunity Area (BOA) grant for Sunset Park. In Sunset Park alone, we have identified over 100 potential brownfields, and will continue to work through the BOA program to identify priority sites and work to develop them in line with community priorities. The BOA program has provided us with a tremendous opportunity to revitalize the Sunset Park community and bring environmental amenities into the neighborhood.



UPROSE

UPROSE believes that the passage of this proposed legislation will facilitate the ability of community-based organizations like ours to work with the various city agencies that need to be involved in the BOA process. In addition, we have already benefited from the trainings sponsored by the Mayor's Office of Environmental Remediation, and believe that the Mayor's Office of Environmental Remediation can provide educational information and technical assistance to CBOs working on brownfields. The Office is also well positioned to make connections amongst brownfield practitioners in the City.

The bill includes strong provisions for community participation and redevelopment of brownfield relative to community priorities, and as a community-based organization engaged in brownfield redevelopment, UPROSE and the New York City Environmental Justice Alliance encourage the Council to pass this bill. The principles of environmental justice call for local policies to be shaped by local organizations and community members, and we hope that the City Council will take into account the support of local environmental justice organizations for this proposed legislation.



**TESTIMONY OF THE REAL ESTATE BOARD OF NEW YORK INC. IN FAVOR OF INTRO 21-A IN RELATION TO DEVELOPING A COMPREHENSIVE PROGRAM FOR THE REMEDIATION AND REUSE OF BROWNFIELDS**

April 21, 2009

The Real Estate Board of New York, Inc. (REBNY) is a broadly based trade association of almost 12,000 owners, developers, brokers and real estate professionals active throughout New York City. We support Intro 21-A. This bill outlines a local brownfield cleanup program that we believe will benefit New York City. This proposed local program will work as companion program to existing cleanup processes administered by the State.

The benefits of a local program tailored to local needs are many. We believe that passing this bill will contribute to cleanup and redevelopment in many neighborhoods of the city and will provide a simpler and more predictable system for property owners. One positive aspect is that sites that do not qualify under the State Brownfield Cleanup Program for whatever reason will now have an opportunity to move ahead with a cleanup that is monitored by a government environmental agency and will result in the issuance of a certificate of completion and liability protection. It will also encourage the cleanup of properties contaminated with historic fill, a category of sites that was excluded from the state brownfield program. That exclusion has kept a significant number of sites located in New York City, especially those along waterfront areas, from being redeveloped as brownfields. The program would also focus on lightly and moderately contaminated sites, another category of sites that are not covered by the state program.

We are also appreciative of the inclusion of template documents for site assessments, agreements and reports as we believe that it will expedite the processing of sites and reduce transactional costs – again adding certainty and expediency to the process.

We also want to applaud the hard work that the Mayor's Office of Environmental Remediation has done to establish this program and its ongoing public outreach.

We look forward to working with the Council and the City on the implementation of this program. Thank you.

**TESTIMONY OF THE REAL ESTATE BOARD OF NEW YORK INC. IN FAVOR OF INTRO 21-A IN RELATION TO DEVELOPING A COMPREHENSIVE PROGRAM FOR THE REMEDIATION AND REUSE OF BROWNFIELDS**

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We look forward to working with the Council and the City on the implementation of this program. Thank you.

**TESTIMONY OF DAVID J. FREEMAN**  
**Before the Environmental Protection Committee of the New York City Council**  
**April 21, 2009**

Mr. Chairman and other members of the Committee, good afternoon.

My name is David Freeman. I am a Partner and Chair of the New York Environmental Practice Group at the law firm of Paul, Hastings, Janofsky & Walker. I am active with respect to brownfield matters as Co-Chair of the Brownfields Task Force of the New York State Bar Association. I also serve as Vice Chair of the New York League of Conservation Voters Education Fund. I am testifying today in my individual capacity, and not as a representative of the Bar Association, The League of Conservation Voters or my firm.

Over the past ten years, I have been involved with more than two dozen brownfield sites in New York State, many of them in New York City. Most of these sites have been enrolled in either the State's Voluntary Cleanup Program or its successor, State's Brownfield Cleanup Program, or BCP.

The BCP is a fine program, at least in concept. But it has significant shortcomings, particularly with respect to sites in New York City, which have created obstacles to the successful completion of cleanup programs and the rejuvenation of these sites. As a result, both the City and local neighborhoods are being deprived of the environmental cleanup, sustainable development, jobs and tax revenues that would result from those cleanups. That is why this legislation is needed.

In my brief remarks I will identify four of the most serious shortcomings and describe how the New York City Brownfield and Community Revitalization Act will address them in a way that bring active brownfield cleanups back to New York City.

First, this legislation will address issues caused by the State's restrictive eligibility guidelines. The BCP carries with it generous tax credits. As a result, DEC has built walls around the BCP, making it difficult for all but the most contaminated sites to be admitted. The more typical sites—lightly to moderately contaminated—do not qualify. Those sites not only lose tax credits. They also lose the other benefits of the BCP—state oversight of the cleanup, public involvement, and a state signoff at the end that an appropriate cleanup has been completed. These sites are cleaned up, if at all, unilaterally and with no public participation.

This legislation would bring those cleanups back into the public domain. There would be oversight by experienced governmental representatives who would assure that the cleanups met appropriate public health and environmental standards. And there would be a public participation process so that affected communities would be informed of and had a say in the outcome.

Second, the State program is not tailored to issues typically faced by sites in New York City. Many New York City sites are contaminated by historic fill, materials brought to the sites many

years ago to raise the ground level for development purposes. This fill is often contaminated with low levels of hazardous substances. However, the State program does not recognize historic fill as qualifying a site for admission into the BCP because of its offsite origin.

The Bill you are considering will rectify this anomaly. It treats contamination by historic fill similarly to any other contamination. If contaminant levels in the fill require remediation, the site will be eligible for the program.

Third, the BCP has been adversely affected by inadequate staffing. The long delays under the State program have been a strong disincentive for entry into the BCP. This bill will establish an office whose sole focus will be on sites in the five boroughs. It will have the effect of jump-starting those projects and streamlining their subsequent handling.

Fourth, the State program deprives many site owners, developers and community groups of the "seal of approval" they need and deserve for successfully undertaking cleanup of these sites. Often, official acknowledgment of a successful cleanup is needed by banks, sellers or insurance carriers in order to facilitate these transactions. In recent years many brownfields deals simply didn't occur because there was no agency to provide an appropriate sign-off that cleanup had been completed.

This legislation will authorize the issuance of a clean property certificate for all sites that successfully complete a cleanup under the program. This certificate would be transferable to subsequent owners. It will allow sellers to sell, subsequent owners to purchase, banks to finance, and insurance companies to provide coverage, in the knowledge that the relevant regulatory agency is satisfied that a proper cleanup has been performed.

Obviously, effective implementation of any legislation is paramount to its success. New York City has already made significant progress in moving sites through the State's program under the leadership of Daniel Walsh and his talented team. I am confident that with the substantial improvements this new legislation provides, New York City will achieve dramatic results in increasing the number of brownfield sites that are cleaned up and brought back into productive use.

I heartily endorse and urge prompt passage of this legislation.

Thank you.

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 21-A Res. No. \_\_\_\_\_

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Name: JAMES T. RIPP

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Address: \_\_\_\_\_

I represent: NY ENV. LAW & JUSTICE PROJECT

Address: 351 B'way #400 4th Floor NY 10012

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(PLEASE PRINT)

Name: Anne Rabe

Address: Castleton, N.Y.

I represent: Center for Health, Env. + Justice

Address: and Citizens' Environmental Coalition

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Name: Mark McIntyre

Address: 253 Broadway

I represent: Mayor's Office

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in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Dan Walsh

Address: 253 Broadway

I represent: Mayor's Office

Address: \_\_\_\_\_

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 in favor  in opposition

Date: \_\_\_\_\_

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 in favor  in opposition

Date: \_\_\_\_\_

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Name: Michael Slattery

Address: 570 Lexington Ave

I represent: REAL ESTATE BOARD OF NY

Address: S/A

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 in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Alexandra DeValle

Address: \_\_\_\_\_

I represent: UPROSE / NUCEJA

Address: \_\_\_\_\_

◆ Please complete this card and return to the Sergeant-at-Arms ◆

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 4-21-09

(PLEASE PRINT)

Name: L. Nicolás Domínguez  
Address: 4 Irving Place 715 New York NY 10003  
I represent: Regional Plan Association  
Address: 4 Irving Place 7115 New York NY 10003

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 21-A Res. No. \_\_\_\_\_

in favor  in opposition

Date: 4/21/09

(PLEASE PRINT)

Name: Dan Hendrick  
Address: 3919 46 Street, Sunnyside 11104  
I represent: NY League of Conservation Voters  
Address: 30 Broad St, NY N-11004

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 21-A Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: JOMY KASS, NPCR  
Address: 11 Penn Plaza, STE 1, NY NY  
I represent: New Yorks For Comm. Dev.  
Address: \_\_\_\_\_

◆ Please complete this card and return to the Sergeant-at-Arms ◆



**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: LARRY SCHWARTZ

Address: 819 THIRD AVE

I represent: SELF

Address: \_\_\_\_\_

▶ Please complete this card and return to the Sergeant-at-Arms ◀

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: DAVID FREEMAN

Address: 75 EAST 5TH ST

I represent: SELF

Address: SAME

▶ Please complete this card and return to the Sergeant-at-Arms ◀